

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

**DEFENDANT JAMES R. BARTLETT'S MOTION TO DISMISS
COUNT V OF THE SECOND AMENDED COMPLAINT**

Defendant James R. Bartlett hereby moves, pursuant to Rules 12(b)(6) and 23.1 of the Federal Rules of Civil Procedure and Local Rule 7.1, to dismiss Count V of the Second Amended Complaint filed by plaintiffs, EK Ventures I, LLC, David L. Taylor, David L. Taylor

and Virginia L. Taylor as trustees for the Taylor Family Revocable Trust and Flextronics International, Ltd.

As grounds therefore, defendant Bartlett refers to and incorporates herein by reference the accompanying Defendant James R. Bartlett's Memorandum In Support Of His Motion To Dismiss Count V Of The Second Amended Complaint.

Wherefore, Defendant Bartlett respectfully requests that this Court dismiss Count V of the plaintiffs' Second Amended Complaint.

REQUEST FOR HEARING

Pursuant to Local Rule 7.1(D), Bartlett requests a hearing on his motion to dismiss.

Defendant,

JAMES R. BARTLETT

By his attorneys,



Thomas S. Fitzpatrick/BBO #556453
DAVIS, MALM & D'AGOSTINE, P.C.
One Boston Place, 37th Floor
Boston, MA 02108
(617) 367-2500

CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

I, Thomas S. Fitzpatrick, hereby certify that on December 15, 2004, I had a teleconference with plaintiffs' counsel, Douglas Roach, during which we conferred and attempted in good faith to narrow the issue raised by the above motion.



Thomas S. Fitzpatrick

Dated: December 17, 2004

CERTIFICATE OF SERVICE

I, Thomas S. Fitzpatrick, hereby certify that on December 17, 2004, the above motion, was sent electronically to:

David F. Anderson danderson@lattianderson.com

Douglas R. Roach droach@groffmurphy.com

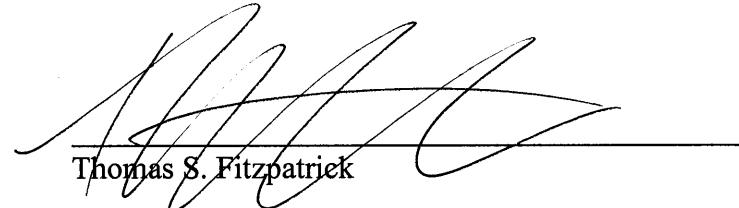
David M. Ryan dryan@nixonpeabody.com

Melissa B. Tearney mtearney@nixonpeabody.com

and by first class mail to:

Douglas R. Roach

Melissa B. Tearney



Thomas S. Fitzpatrick